IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 22ND AUGUST 2007 / 31ST SRAVANA 1929

Bail Appl..No. 5168 of 2007()

CRIME NO. 203/07 OF KURATHIKAD POLICE STATION

PETITIONER/ACCUSED

RAHIM,
KALLUVETTUPARAMBIL VEEDU, WARD NO.VIII,
THAZHAKKARA PANCHAYATH, VETTIYAR MURI,
VETTIYAR VILLAGE.

BY ADV. SRI.GEORGE VARGHESE(PERUMPALLIKUTTIYIL)
SRI.A.R.DILEEP
SMT.KAVITHA GANGADHARAN

RESPONDENTS: STATE AND COMPLAINANT

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1. STATE OF KERALA REPRESENTED BY
THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

2. CIRCLE INSPECTOR OF POLICE,
KURATHIKKAD POLICE STATION,
MAVELIKKARA.

BY PUBLIC PROSECUTOR SRI. S.U. NAZAR

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 22/08/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

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B.A.No. 5168 of 2007

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Dated this the 22nd day of August, 2007

O R D E R

Application for regular bail. The petitioner is the sole accused. He faces allegations under Section 302 I.P.C. The alleged incident took place on 3.8.2007 at 7.30 p.m. On account of strain in the relationship arising out of an anterior incident which occurred on the same day, the petitioner is alleged to have come on the motor cycle and deliberately hit against the deceased with an intention of causing his death. The deceased fell down, suffered fracture of the tibia as also fracture of the cranial bones. He succumbed to the injuries suffered. A relative of the deceased, who had reached the scene, narrated in detail in the F.I. statement the version of the deceased about the incident. The eye witnesses, who were proceeding along with the deceased, also confirmed the version as to how the incident had taken place. The petitioner was arrested on 6.8.07. Investigation is in progress.

2. The learned counsel for the petitioner submits that the petitioner is absolutely innocent. The learned counsel submits that

there is nothing to indicate that it was a deliberate act of the petitioner hitting the deceased while he was walking, with a motor cycle. The allegation is itself artificial. Even according to the F.I. statement the petitioner had also fallen from the motor cycle. This suggests the improbability of the petitioner attempting to cause injury/death of the victim by attempting to hit him with his motor cycle. The petitioner has a further case that there was delay in taking the victim to the hospital and that is really the cause of the death. The learned counsel, in these circumstances, prays that the petitioner may be enlarged on bail.

3. The learned Prosecutor vehemently opposes the application. He submits that the dying declaration of the deceased as also the evidence of the eye witnesses, who were present along with the deceased at the precise time of occurrence and the conduct of the accused, who ran away from the scene, do all point to the unerring conclusion that it was not an accident but was a deliberate act on the part of the petitioner. The alleged delay in the deceased getting medical aid, even if true, cannot alter the culpability of the petitioner. The learned Prosecutor submits that it is too early to consider the question of release of the petitioner on bail. In a serious crime

like this the Investigators may be given sufficient and reasonable time to complete the investigation, submits the Prosecutor.

4. I have been taken through the F.I. statement and the postmortem certificate. The case diary has been placed for my perusal. Having considered all the relevant inputs, I find merit in the opposition made by the learned Prosecutor. I am satisfied, as rightly pointed out by the learned Prosecutor, that the Investigators are entitled for reasonable further time to complete the investigation.

5. This application is, in these circumstance, dismissed. But I may hasten to observe that the petitioner shall be at liberty to move the learned Sessions Judge or this court for bail again at a later stage of the investigation, not at any rate, prior to 5.9.2007. The Investigators shall, in the meantime, make every endeavour to complete the investigation.

(R. BASANT)
Judge

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